

CRR-3097-2017 &
CRR-3330-2017

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1)

CRR-3097-2017

Yogender @ Lala Thakur

...Petitioner

Versus

State of Haryana

...Respondent

(2)

CRR-3330-2017

Raju @ Lafdu

...Petitioner

Versus

State of Haryana

...Respondent

Date of Decision:22.12.2017

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rajesh Lamba, Advocate
for the petitioner in CRR-3097-2017.

Mr.S.K. Rana, Advocate
for the petitioner in CRR-3330-2017

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Vide this judgment, I propose to dispose of two criminal

revisions i.e. **CRR-3097-2017** filed by petitioner Yogender @ Lala Thakur and **CRR-3330-2017** filed by petitioner Raju @ Lafdu against the judgment dated 11.8.2017 passed by learned Additional Sessions Judge, Faridabad vide which the judgment of conviction dated 13.11.2015 and order of sentence dated 16.11.2015 passed by learned Chief Judicial Magistrate convicting them for the offences under Sections 323, 325, 452, 506 read with Section 34 IPC and sentencing them for those offences were upheld, whereas the appeal filed by accused-convicts was dismissed.

The accused-convicts – Yogender @ Lala Thakur and Raju @ Lafdu, who are petitioners before this Court prays that the revision petitions be accepted, the impugned judgment of their conviction and order of sentence passed by Chief Judicial Magistrate, Faridabad and judgment in appeal by learned Additional Sessions Judge, Faridabad be set aside and they be acquitted of the charge framed against them.

The allegations against the accused are that on 1.9.2013 at about 10:00 p.m. while the complainant Hari Singh was sitting with them and taking liquor, then Neetu Foji came to the house of complainant and his shoe was having cow dung marks; that when the complainant pointed it out to Neetu Foji asking him to remove his shoes before entering his house, Neetu Foji accordingly did so; Lala Thakur, however, asked the complainant to behave properly but Neetu Foji pacified him; that thereafter Neetu Foji left for his house; at 12:00 midnight, Lala Thakur and Raju left that place for some time and when they returned, Raju was having a danda, whereas Lala Thakur was having a baseball bat in his hand and they started giving beatings to the complainant inasmuch as

baseball bat blow given by Lala Thakur hit the complainant on his face, right foot and leg, whereas Raju also gave danda blows to complainant hitting him on his face, chest and hands; that the complainant was threatened also; that when the complainant raised hue and cry, Mohan arrived there and then the accused/assailants ran away from the spot along with their respective weapons. The complainant had become unconscious. He was removed to hospital. The police was informed. The complainant/injured got his statement recorded regarding the incident with HC Sanjay on 4.9.2013, which formed basis for registration of the FIR. Thereafter, the matter was investigated, during the course of which both the accused were arrested. They were interrogated and got recovered the weapons used by them in the incident. Statements of witnesses were recorded.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Chief Judicial Magistrate, Faridabad, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Chief Judicial Magistrate, Faridabad finding that charge for offences under Sections 323, 325, 452, 506, 34 IPC was disclosed against the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as eight witnesses, namely, Dr.Kulvinder as PW1, complainant Hari Singh as PW2, Mohan as PW3, HC Khurshid Ahmed as

PW4, Dr.Gagan Sharma as PW5, SI Abhay Singh as PW6, HC Sanjay as PW7 and ESI Satbir Singh as PW8.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to them but they denied the allegations contending that they are innocent and had been falsely involved in this case.

In defence evidence, accused examined Naresh @ Neetu Foji as DW1 and Bharat Sharma as DW2.

After hearing arguments, learned Chief Judicial Magistrate, Faridabad vide judgment dated 13.11.2015 convicted both the accused for the offences under Sections 323, 325, 452, 506 read with Section 34 IPC and vide order dated 16.11.2015 sentenced them as under:

Under Sections	Sentence Awarded
323/34 IPC	Rigorous imprisonment for six months each.
325/34 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of two months each.
452/34 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of two months each.
506/34 IPC	Rigorous imprisonment for two years each.

All the sentences were ordered to run concurrently.

The appeal preferred against the judgment of conviction and

order of sentence passed by the Chief Judicial Magistrate, Faridabad was also decided against the accused by learned Additional Sessions Judge, Faridabad, which left petitioners – accused aggrieved and he have filed the present revision petitions, notices of which had been issued to the respondent – State, which put in appearance through counsel.

I have heard learned counsel for the petitioners-accused-convict and learned Assistant Advocate General for the State of Haryana besides going through the record.

During the pendency of the revisions petitions, the parties have entered into a compromise. Statements of complainant/injured Hari Singh, eye-witness Mohan Singh and those of both the accused Yogender @ Lala Thakur and Raju @ Lafdu have been recorded by Chief Judicial Magistrate, Faridabad, in which they have admitted the factum of compromise between the parties.

Learned counsel for the revision petitioners have referred to the authorities *Gurcharan Singh Versus State of Punjab and others, 2015(8) R.C.R.(Criminal) 167, Kesar Singh and others Versus State of Punjab, 2015(3) R.C.R.(Criminal) 288, Arjan Dass and others Versus State of Haryana and another, 2017(1) Law Herald 795 and Rohtash and others Versus State of Haryana, 2016(4) R.C.R.(Criminal) 721* in support of their contentions and they stated that the benefit can be given to the accused by way of reduction in sentence even when the matter is compromised at the stage of revision.

At the very outset, learned counsel for the petitioners state that they do not challenge the impugned judgments on the point of

conviction but their prayer is only regarding sentence part.

As per the custody certificates, the accused/convict Raju @ Lala has undergone 5 months and 25 days of total sentence including remissions, whereas accused/convict Yogender @ Lala Thakur has undergone 5 months and 14 days. Accused Raju @ Lafdu is not shown to be involved in any other case, whereas accused Yogender @ Lala Thakur is shown to be involved in another case registered vide FIR No.627 of 2016 under Sections 323, 34, 393 IPC, registered with Police Station Central Faridabad, but he is shown to be on bail in that case.

The judgments of conviction passed by the Courts below are well reasoned ones, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein.

I find that ends of justice would be squarely met if the petitioners are sentenced to imprisonment already undergone by them, while in custody in the present case. Therefore, the impugned judgments are upheld as regards conviction part qua the petitioners.

However, as far sentence part is concerned, the same is modified and the petitioners are sentenced to imprisonment already undergone by them as mentioned supra. However, the sentence part regarding payment of fine shall remain intact.

As such the revision petitions challenging the impugned judgments stand disposed of with above modification in sentence.

The petitioners – Yogender @ Lala Thakur and Raju @ Lafdu, who are stated to be in custody are ordered to be released

CRR-3097-2017 &
CRR-3330-2017

-7-

forthwith, if not required in any other case.

Necessary intimation be sent to the quarter concerned.

22.12.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No